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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 ANTHONY NATOLI,

12 Plaintiff,

13 vs.

14 MICHAEL J. ASTRUE, Commissioner
of Social Security Administration,

15 Defendant.
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CASE NO. CV 06-02742 (RZ)

MEMORANDUM OPINION
AND ORDER

17 Because the Court agrees with the first of Plaintiff's three arguments
18 challenging the underlying step-four denial of disability benefits, it will reverse and remand
19 without consideration of the remaining two arguments.

20 Plaintiff's first argument is that the Administrative Law Judge erred in not
21 mentioning, and seemingly not taking into account, a sleep study conducted on January 26,
22 2005 and showing significant objective problems. *See* Administrative Record ("AR") 405-
23 11. The Administrative Law Judge did find that Plaintiff suffered from "severe" fatigue
24 and weakness secondary to his treatment for lymphoma, AR 15, 16, and did include a fairly
25 detailed summary of many other aspects of the record, *see* AR 15-16, but he discounted
26 Plaintiff's credibility as to the *degree* of those symptoms, in part because of "the medical
27 history." As Plaintiff notes, however, the underlying opinion makes no mention of the
28 sleep study, which would appear to bolster the *objective* "medical history" supporting

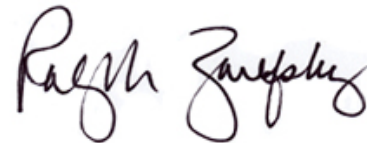
1 Plaintiff's *subjective* reports. It is unclear to the Court, therefore, whether the opinion took
2 that study into account. In turn, it is unclear that consideration of the report – *if* the prior
3 opinion omitted such consideration, which it may not have done – would not result in a
4 better outcome for Plaintiff. Remand is necessary to clarify the matter.

5 Defendant advances several reasons why the omission should be regarded as
6 harmless. While it is possible that the Administrative Law Judge properly will deny
7 benefits on remand, the Court is limited to the rationales stated by the Administrative Law
8 Judge in his opinion, and may not look to the *post hoc* explanations offered here. *See*
9 *Ceguerra v. Secretary of Health & Human Services*, 933 F.2d 735, 738 (9th Cir. 1991).

10 The Court expresses no opinion on Plaintiff's other arguments for reversal.
11 On remand, however, Defendant may wish to take them into consideration.

12 For the foregoing reasons, the decision of the Commissioner is reversed and
13 the matter is remanded for further proceedings consistent with this Opinion.

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15 DATED: July 18, 2007

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19 RALPH ZAREFSKY
20 UNITED STATES MAGISTRATE JUDGE
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